IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. W.P. No.495 of 2006

DATE OF DECISION:8.11.2006

Nirmala .....Petitioner

Versus

State of Haryana & Ors. .....Respondents

CORAM:- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present:- Shri V.K. Jindal, Advocate and
Shri Durga Dutt, Advocate
for the petitioner.

Shri M.S. Sindhu, DAG, Haryana.

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Petitioner-Nirmala, who has been convicted for an offence under Sections 304 B and 498-A IPC and sentenced for 10 years filed this petition under Section 482 Cr.P.C. for directing the respondents for reconsidering her case for release on licence under the Good Conduct Prisoners' Probational Release Act, 1926 and the rule framed thereunder and also for setting aside the order dated 10.5.2006, whereby, his request for his probational released under the aforesaid Act has been dismissed while observing as under:-

> "Hence keeping in view the fact that the convict had not completed 18 months of sentence in jail as provided in Section 9 of the Good Conduct Probational Release, 1926 before repealing the GCPPR Act on 27.6.2001, she is not eligible to be considered for the conditional release as per clause 2 of the repealed Act. Hence her plea for the conditional release under the said Act is not legally possible and the same is rejected."

Counsel for the petitioner referred to the written statement filed

by respondents No.1 to 3, in which, it has been stated that the period of sentence, which has been mentioned as 18 months in the impugned order was inadvertently mentioned as the same was reduced from 18 months to 8 months by the subsequent amendment in Rule 9. Counsel further contends that if this is the factual position then keeping in view the sentence already undergone by the petitioner on the relevant date, the petitioner is entitled for the benefit under the aforesaid Act.

In view of the written statement filed by the respondent-State, counsel for the respondent-State states that there is some ambiguity in the impugned order about the period of sentence. Let the authorities be permitted to reconsider the matter and pass a fresh order, in the light of the aforesaid rules and the judgement of Supreme Court in **Balak Ram** Vs. **State of U.P. & Anr.** (Crl. W.P.No. 4930 of 1981) decided on 31.8.1982.

In view of the above, this petition is allowed and the impugned order dated 10.5.2006 is quashed with a direction to the respondents to reconsider the matter of the petitioner for his release under the aforesaid Act and the rules,

in the light of the above Supreme Court decision, preferably within a period of three months.

November 8, 2006 **(SATISH KUMAR MITTAL)**
pooja **JUDGE**